IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CMPMO No. 119 of 2006.

Date of Decision: 26th September, 2006.

Mehar Singh. …. Petitioner.

Versus

Kharundhi and another. Respondents.

Coram

The Hon'ble Mr. Justice V.K. Gupta, C.J.

Whether approved for reporting[1]?

For the Petitioner: Mr. Vikas Bhardwaj, Advocate.

For the respondent: Mr. Sanjeev Kuthiala, Advocate, for respondent No.2.

V.K. Gupta, C.J. (Oral).

Apparently a very straightforward, plain and simple rectification request in the award dated 1st June, 2004 has been turned down by the learned Motor Accidents Claims Tribunal-II, Kangra at Dharmshala vide the impugned order dated 4th January, 2006 even though the error in the award, on the very face of the award was so glaringly and manifestly apparent that the rectification request ought to have straightway been granted by the learned Tribunal.

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[1] Whether reporters of the Local Papers are allowed to see the Judgment?

With respect to Issue No.2 relating to the quantum of compensation to which the petitioner would be entitled, the Tribunal first and foremost discussed the expenditure incurred by the petitioner in Christian Medical College and Hospital, Ludhiana in para 13 of the award dated 1st June, 2004. The following observations in para 13 of the said Award,

> **"The petitioner has brought in evidence the bills along with details of his medical treatment by examining Shri Samuel Mall Accountant, C.M.C. Ludhiana as PW1. According to him the petitioner remained under treatment in C.M.C. Ludhina from 23.8.99 to 4.4.2001 and he is still under treatment for follow up of treatment and the petitioner has to meet with the expenditure on account of his treatment as per record Ex.PW1/A to Ex.PW1/A-G. In these documents details of expenditure has been given which is as under . . . . . .**
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> **The amount which the petitioner has to spend on treatment as per bills Ex.PW1/A to Ex.PW1/G comes to Rs.88,932. …….."**

were made by the Tribunal to quantify compensation under the aforesaid head. Thereafter the Tribunal proceeded to examine, consider and decide various other heads of

expenditure incurred by, as well as the entitlements of the petitioner. The examination, consideration and decisions under various heads, apart from the aforesaid para 13 finds mention in latter part of para 13 itself as well as in paras 14, 15, 16 and 17 of the aforesaid award. Without however specifically entering into the process of arithmetic calculation by adding various heads together, the Tribunal in para 20 of the award quoted the figure of 3,27,003/- as the gross amount due to the petitioner.

A very plain reading of the award thus suggests without any ambiguity, without any doubt that the Tribunal had granted Rs.88,932/- as compensation to the petitioner based on the expenditure incurred by him towards his medical treatment, details whereof are found in para 13 of the award. Apparently, by an inadvertent oversight and/or by an unintended omission, while arriving at the grand total, the Tribunal did not include the aforesaid amount of Rs.88,932/-. This was surely an arithmetical/clerical error. In my opinion, the learned Presiding Officer of the Tribunal vide the impugned order dated 4th January, 2006 very mechanically and wrongly

rejected the petitioner's request for rectification.

I have seen the original record of the Tribunal also and find that indeed seven bills mentioned in para 13 of the award, namely, Ex.PW1/A to Ex.PW1/G have been duly exhibited in the claim petition and these actually are for the respective amounts mentioned in para 13 (supra).

For the foregoing reasons, this petition is allowed. The impugned order is set aside.

The application filed by the petitioner under Section 152 of the Code of Civil Procedure shall stand allowed with the result and consequence that the amount of Rs.88,932/- shall be and shall always be deemed to be added to the award amount bringing the grand total to Rs.4,15,935/-.

The award dated 1st June, 2004 because of the aforesaid error, passed for Rs.3,27,003/- carried interest at the rate of 6% per annum from the date of the filing of the petition till the compensation amount would be paid by the respondent-insurer. The petitioner, therefore, is held entitled to receive interest at the aforesaid rate for the aforesaid period on the

aforesaid amount of Rs.88,932/- also. I accordingly direct that on the aforesaid amount, the respondent-insurer shall pay interest at the rate of 6% per annum from the date of the filing of the claim petition uptil the date of the award i.e. 1st June, 2004. The amount of Rs.88,932/- along with the interest as directed herein shall be deposited by the respondent-insurer with the Claims Tribunal within six weeks from today. If this is not done, the respondent-insurer shall be liable to pay interest on the aforesaid amount at the rate of 12% per annum and the interest liability shall extend beyond the date of the passing of the award uptil the amount is actually paid. On this being done, the Tribunal shall disburse the amount to the petitioner on the petitioner making an application to that effect.

Petition allowed.

26th September, 2006. (V.K. Gupta), C.J.

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